

Remarks

Claims 1-50 are pending. Claims 44-50 have been canceled without prejudice as being directed to a non-elected invention.

Claims 40-42 also have been canceled without prejudice. Claims 20 and 35 have been amended to specify that the reservoir contents comprises a drug.

New claims 51-56 have been added. Support for the new claims can be found, for example, in original claims 1, 21, 26, and 36, and at page 7, lines 8-15; page 9, lines 27-31; and page 13, lines 24-30.

Restriction Requirement

The Office Action divided claims 1-50 into two groups: Group I, claims 1-43, drawn to an apparatus; and Group II, claims 44-50, drawn to a method of use. Applicants elect, without traverse, to prosecute Group I, claims 1-43.

Species Election Requirement

The Office Action indicated that the claims are directed to the following patentably distinct species and requires election to a single species:

Species A – System for the controlled release or exposure of reservoir contents which comprises (1) a microchip device ...; and (2) a rechargeable or on-demand power source comprising a local component which can wirelessly receive power from a remote transmitter, wherein the received power can be used, directly or following transduction, to activate release or exposure of the reservoir contents.

Species B – System for the controlled release or exposure of reservoir contents which comprises (1) a microchip device ...; and (2) a telemetry system for the wireless transfer of data between the microchip device and a remote controller.

Species C – transfer utilizing various kinds of transmitters and receivers

Species D – Figure 2a

Applicants elect, with traverse, Species B. Claims 19, 26-39, 43, 52, 55, and 56 read on the elected species. Applicants traverse on the following grounds:

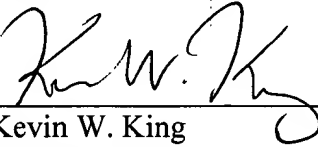
First, the Office Action fails to comport with M.P.E.P. §§ 814 and 816. The so-called species identified as Species C and Species D are not sufficiently defined by the Office Action to ascertain whether they are in fact distinct embodiments from Species A or Species B. For instance, Species B includes “a telemetry system” and Species C includes “transmitters and receivers.” A telemetry system can include transmitters and receivers. The Office Action’s identification of the so-called species is thus confusing and improper.

Second, the Office Action fails to comport with M.P.E.P. § 808.01(a), in that the Examiner failed to consider that claims 19 and 43 (and now claim 55) link Species A and Species B together. Therefore, there is a disclosed relationship between the so-called species, and an election requirement is not proper.

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AMENDMENT &
RESPONSE TO OFFICE ACTION

Applicants respectfully request that the species election requirement be withdrawn and that examination of claims 1-39, 43, and 51-56 proceed on the merits.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Kevin W. King", written over a horizontal line.

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